

1 JEAN E. WILLIAMS,
2 Acting Assistant Attorney General
3 SETH M. BARSKY, Section Chief
4 MEREDITH L. FLAX, Assistant Section Chief
5 COBY HOWELL, Senior Trial Attorney
6 MICHAEL R. EITEL, Senior Trial Attorney
7 U.S. Department of Justice
8 Environment & Natural Resources Division
9 Wildlife & Marine Resources Section
10 1000 S.W. Third Avenue
11 Portland, OR 97204
12 Phone: (503) 727-1023
13 Fax: (503) 727-1117
14 Email: coby.howell@usdoj.gov

15 Attorneys for Federal Defendants

16
17 UNITED STATES DISTRICT COURT
18
19 NORTHERN DISTRICT OF CALIFORNIA (Oakland)

20
21 CENTER FOR BIOLOGICAL DIVERSITY,
22 ET AL.,

23 Plaintiffs,

24 vs.

25 HAALAND, ET AL.,

26 Federal Defendants.

27 Case. No. 4:19-cv-05206-JST

**JOINT STATUS REPORT AND
STIPULATION TO CONTINUE
STAY OF PROCEEDINGS FOR
30 DAYS AND {PROPOSED}
ORDER**

28 Pursuant to Civil Local Rule 7-12 and 16-2, Federal Defendants and
29 Plaintiffs in the three related cases of *Center for Biological Diversity v. Haaland*,
30 No. 19-cv-05206, *California v. Haaland*, No. 19-cv-06013, and *Animal Legal Def.
Fund v. Haaland*, No. 19-cv-06812, provide the following status report and stipulate
31

1 to continue the stay of proceedings for 30 days. Intervenor-Defendants do not join
2 in the stipulation, but do not oppose extension of the stay for an additional 30 days.
3 In support of the joint stipulation, the Federal Defendants and Plaintiffs set forth
4 the following reasons:

5 1. These related cases¹ challenge three Endangered Species Act (“ESA”) final
6 rules promulgated by the U.S. Fish and Wildlife Service within the U.S.
7 Department of the Interior, two of which were jointly promulgated with the
8 National Marine Fisheries Service within the National Oceanic and Atmospheric
9 Administration, U.S. Department of Commerce. *See* 84 Fed. Reg. 45020 (Section 4
10 revisions); 84 Fed. Reg. 44753 (Section 4(d) revisions); and 84 Fed. Reg. 44976
11 (Section 7(a)(2) revisions).

12 2. On November 19, 2020, the Court entered an amended case management
13 order. ECF 111. In accordance with that order, Plaintiffs filed their motions for
14 summary judgment on January 19, 2021. ECF 86; ECF 116; ECF 130.

15 3. On January 20, 2021, President Biden issued an Executive Order entitled
16 “Executive Order on Protecting Public Health and the Environment and Restoring
17 Science to Tackle the Climate Crisis.” In conformance with the Executive Order,
18 Federal Defendants are in the process of reviewing many final rules promulgated in
19 the last four years, including the final rules at issue in this case.

20
21
22
23
24
25
26 ¹ On January 27, 2021, the Court related *State of California v. Haaland*, 21-cv-
27 00440-JST (N.D. Cal.), with the above-related cases. ECF 136. Federal Defendants
and State-Plaintiffs in that case will be filing a similar stipulated motion.

1 4. On February 9, 2021, the Parties requested a stay of proceedings for 60 days
2 to give agency officials adequate time to review the final rules and determine how
3 they would like to proceed with this litigation. ECF 137. On February 16, 2021, the
4 court granted the requested stay and vacated the existing court deadlines. ECF
5 139.
6

7 5. On April 19, 2021, the Court granted an additional 60-day stay and ordered
8 that the parties file a joint status report no later than June 18, 2021. ECF 141.
9

10 6. Following the Administration's review of the contested rules, on June 4, 2021,
11 the Services announced that they intend to propose to rescind some aspects of the
12 final rules and revise other aspects of the final rules at issue in this case.²
13

14 7. This information was conveyed to the parties on June 4, 2021. However, the
15 Services have not yet finalized a schedule for, or identified certain details of, the
16 proposed rulemakings. In light of the lack of a schedule and further details, the
17 Federal Defendants and Plaintiffs stipulate to continue the stay of proceedings for
18 an additional 30 days. This will allow the parties to discuss further proceedings.
19

20 8. Granting this motion will not prejudice any party, will conserve the parties'
21 resources, and will promote the interest of judicial economy.
22

23 For the foregoing reasons, Federal Defendants and Plaintiffs respectfully
24 request that the Court continue the stay of proceedings in this case for an
25

26 2 *See*, https://www.fws.gov/news>ShowNews.cfm?ref=u.s.-fish-and-wildlife-service-and-noaa-fisheries-to-propose-regulatory-&_ID=36925
27

1 additional 30 days to July 19, 2021. Upon expiration of the stay, the parties will file
2 a joint status report proposing further proceedings.

3
4
5 DATED: June 18, 2021.

6 JEAN E. WILLIAMS,
7 Acting Assistant Attorney General
8 SETH M. BARSKY, Chief
9 MEREDITH FLAX, Assistant Chief

10 /s/ Coby Howell,
11 COBY HOWELL, Senior Trial Attorney
12 U.S. Department of Justice
13 Environment & Natural Resources Division
14 Wildlife & Marine Resources Section
15 MICHAEL R. EITEL, Senior Trial Attorney
16 U.S. Department of Justice
17 Environment & Natural Resources Division
18 Wildlife & Marine Resources Section
19 1000 S.W. Third Avenue
20 Portland, OR 97204
21 Phone: (503) 727-1023
22 Fax: (503) 727-1117
23 Email: coby.howell@usdoj.gov

24 Attorneys for Federal Defendants

25 By permission: /s/ Kristen Boyles
26 KRISTEN L. BOYLES (CSBA # 158450)
27 PAULO PALUGOD (NYBA # 5047964)
[Admitted Pro Hac Vice]
Earthjustice
705 Second Avenue, Suite 203
Seattle, WA 98104
Ph: (206) 343-7340 | Fax: (206) 343-1526
kboyles@earthjustice.org
ppalugod@earthjustice.org

28 ANDREA A. TREECE (CSBA # 237639)
29 Earthjustice

50 California Street, Suite 500
San Francisco, CA 94111
Ph: (415) 217-2089 | Fax: (415) 217-2040
atreece@earthjustice.org

ROB BONTA
Attorney General of California

/s/: By Permission
GEORGE TORGUN, State Bar No. 222085
TARA MUELLER, State Bar No. 161536
ERIN GANAHL, State Bar No. 248472
Deputy Attorneys General
1515 Clay Street, 20th Floor
P.O. Box 70550
Oakland, CA 94612-0550
Telephone: (510) 879-1002
Fax: (510) 622-2270
E-mail: George.Torgun@doj.ca.gov

/s/ by Permission
CLEMENT ROBERTS (CSBA # 209203)
DANIEL S. GUERRA (CSBA # 267559)
ORRICK, HERRINGTON & SUTCLIFFE LLP
405 Howard Street
San Francisco, CA 94105
Telephone: (415) 773-5700
Facsimile: (415) 773-5759
croberts@orrick.com
dguerra@orrick.com

EMMANUEL FUA (CSBA # 284563)
ORRICK, HERRINGTON & SUTLIFFE LLP
51 West 52nd Street
New York, NY 10019
Telephone: (212) 506-5000
Facsimile: (212) 506-5151
efua@orrick.com

Attorneys for Plaintiffs

* In compliance with Civil Local Rule 5-1(i), the filer of this document attests that all signatories listed have concurred in the filing of this document.

~~[PROPOSED]~~ ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED:

Dated June 21, 2021 :

Jon. S. Tigar
The Honorable Jon S. Tigar